

Chapter 173-312 WAC

COORDINATED PREVENTION GRANTS

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WAC

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WAC 173-312-010 Purpose and authority. (1) The purpose of this chapter is to set forth requirements for the conduct of a financial assistance program to provide grants to local governments for local hazardous waste plans and programs and solid waste plans and programs, under the Model Toxics Control Act, RCW 70.105D.070(3). The plans and programs referenced in RCW 70.105D.070(3) are designed to prevent or minimize environmental contamination. Therefore, the grants are designated "coordinated prevention grants" under this chapter.

(2) A further purpose of this chapter is to establish a structure for the administration of coordinated prevention grants funded from the local toxics control account authorized by RCW 82.21.030. The administrative structure may be extended to other waste management grant programs using other funding sources including the litter control account authorized by chapter 70.93 RCW, the hazardous waste assistance account authorized by chapter 70.95E RCW, and other waste management funding sources that may be established in the future by the legislature.

(3) The purposes of the coordinated prevention grants program are to:

(a) Consolidate all grant programs funded from the local toxics control account, and other programs in subsection (2) of this section that may be selected, into a single program, except for remedial action, public participation, and citizen proponent negotiations grants.

(b) Promote regional solutions and intergovernmental cooperation.

(c) Prevent or minimize environmental contamination by providing financial assistance to local governments to help them

comply with state solid and hazardous waste laws and rules.

(d) Provide funding assistance for local solid and hazardous waste planning and for implementation of some programs and projects in those plans.

(e) Encourage local responsibility for solid and hazardous waste management.

(f) Improve efficiency, consistency, reliability, and accountability of grant administration.

Note: Copies of all cited statutes, rules, and guidelines are available at the Department of Ecology, Records Management, P.O. Box 47600, Olympia, Washington 98504-7600.

[Statutory Authority: Chapters 70.105D and 43.21 RCW. 02-05-070 (Order 01-11), § 173-312-010, filed 2/19/02, effective 3/22/02. Statutory Authority: RCW 70.105D.070(3). 00-19-016 (Order 00-19), § 173-312-010, filed 9/8/00, effective 10/9/00. Statutory Authority: RCW 43.21A.080. 91-11-090 (Order 90-65), § 173-312-010, filed 5/21/91, effective 6/21/91. Statutory Authority: RCW 43.21A.080 and chapter 70.105D RCW. 90-18-064 (Order 90-17), § 173-312-010, filed 9/4/90, effective 10/5/90. Statutory Authority: RCW 70.105B.220 and 70.95.220. 88-17-001 (Order 88-26), § 173-312-010, filed 8/4/88.]

WAC 173-312-020 Definitions. "Cash expenditure" means any cash outlay by the recipient, regardless of the source of funds, for direct costs of goods and/or services; salaries and benefits of recipient employees, including force account; overhead cash; and payments made to contractors.

"Department" means the department of ecology.

"Grant" means the portion of the project costs borne by the department.

"In-kind contributions" are property or services that benefit a project and that are contributed by a third party, without direct monetary compensation, to the recipient (or to any contractor under the agreement). In-kind contributions include donated or loaned real or personal property, volunteer services, and employee services donated by a third party.

"Incineration" means a process of reducing the volume of solid waste by use of an enclosed device using controlled flame combustion, operating under federal and state environmental laws and rules.

"Interlocal costs" are in-kind contributions made to a project by another local government under a valid written agreement between the recipient and the other government that details the work to be accomplished, the goods and services to be provided, and the value thereof. If the recipient reimburses

another governmental entity for any portion of its contributions, the amount paid to the other entity is not an interlocal cost. It is a cash expenditure on the part of the recipient. Only the nonreimbursed portion of the other governmental entity's contributions is an interlocal cost.

"Landfill" means a disposal facility or part of a facility at which solid waste is permanently placed in or on land and which is not a landspreading disposal facility.

"Lead implementation agency" means the agency designated in the adopted local solid or hazardous waste plan as having the principal responsibility for the execution of all or most of the plan, and/or the coordinating agency that delegates responsibility to other agencies to execute portions of the plan.

"Local government" means any political subdivision, regional governmental unit, district, municipal or public corporation, including cities, towns, and counties. The term encompasses but does not refer specifically to the departments within a city, town, or county.

"Local hazardous waste plan" means the plan to manage moderate-risk waste that a local government is required to prepare under RCW 70.105.220.

"Match" means that portion of the cash expenditures borne by recipient funds and interlocal costs.

"Moderate-risk waste" means (a) any waste that exhibits any of the properties of hazardous waste but is exempt from regulation under chapter 70.105 RCW solely because the waste is generated in quantities below the threshold for regulation, and (b) any household wastes that are generated from the disposal of substances identified by the department as hazardous household substances or substances that exhibit any of the properties of hazardous waste.

"Recipient" means the entity to which the funding is awarded and that is accountable for the use of the funds provided. The recipient is the entire legal entity even if only one component or department is designated in the agreement document.

"Recyclable materials" means those solid wastes separated for recycling or reuse, such as papers, metals and glass, that are identified as recyclable material under a local comprehensive solid waste plan.

"Recycling" means transforming or remanufacturing waste materials into usable or marketable materials for use other than landfill disposal or incineration.

"Solid waste" or "wastes" means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill,

demolition and construction wastes, abandoned vehicles or parts thereof, and recyclable materials.

[Statutory Authority: Chapters 70.105D and 43.21 RCW. 02-05-070 (Order 01-11), § 173-312-020, filed 2/19/02, effective 3/22/02. Statutory Authority: RCW 70.105D.070(3). 00-19-016 (Order 00-19), § 173-312-020, filed 9/8/00, effective 10/9/00. Statutory Authority: RCW 43.21A.080. 91-11-090 (Order 90-65), § 173-312-020, filed 5/21/91, effective 6/21/91. Statutory Authority: RCW 43.21A.080 and chapter 70.105D RCW. 90-18-064 (Order 90-17), § 173-312-020, filed 9/4/90, effective 10/5/90. Statutory Authority: RCW 70.105B.220 and 70.95.220. 88-17-001 (Order 88-26), § 173-312-020, filed 8/4/88.]

WAC 173-312-030 Relation to other legislation and administrative rules. (1) This rule shall, together with chapters 173-322 and 173-321 WAC, and WAC 173-303-902, fulfill the requirement for rule making set forth in RCW 70.105D.070(7).

(2) The local government receiving a grant shall comply fully with all applicable federal, state, and local laws, orders, rules, and permits.

(3) Grants will be awarded within the limits of available funds. The obligation of the department to make grant payments is contingent upon the availability of funds through legislative appropriation and allotment, and other conditions not reasonably foreseeable by the department, which may render performance impossible.

(4) Nothing in this chapter may influence, affect, or modify existing department programs, rules, or enforcement of applicable laws relating to solid and hazardous waste management and cleanup.

(5) All grants are subject to existing applicable accounting and auditing requirements of state laws and rules.

[Statutory Authority: RCW 70.105D.070(3). 00-19-016 (Order 00-19), § 173-312-030, filed 9/8/00, effective 10/9/00. Statutory Authority: RCW 43.21A.080. 91-11-090 (Order 90-65), § 173-312-030, filed 5/21/91, effective 6/21/91. Statutory Authority: RCW 43.21A.080 and chapter 70.105D RCW. 90-18-064 (Order 90-17), § 173-312-030, filed 9/4/90, effective 10/5/90. Statutory Authority: RCW 70.105B.220 and 70.95.220. 88-17-001 (Order 88-26), § 173-312-030, filed 8/4/88.]

WAC 173-312-040 Applicant eligibility. (1) Eligibility for solid waste planning grants. Counties that are required by

chapter 70.95 RCW to adopt or update local solid waste plans are eligible to apply for coordinated prevention grants to help pay for those plans. This eligibility extends to cities that have submitted an independent city plan, a joint city plan, or joint city-county plan to the department by the effective date of this rule. This eligibility also extends to any city subsequently requesting funding for the preparation of an independent plan, if the city provides for disposal sites wholly within its jurisdiction.

(2) Eligibility for solid waste enforcement grants. Jurisdictional health departments/districts are eligible to apply for coordinated prevention grants to pay for the enforcement of rules adopted under chapter 70.95 RCW.

(3) Eligibility for solid waste implementation grants. Counties whose solid waste plans are adopted and approved by the department as required by chapter 70.95 RCW are eligible to apply for coordinated prevention grants to help pay for the implementation of waste reduction and recycling projects in the most recently approved and adopted plan: Provided, That those projects are eligible as defined in WAC 173-312-050. This eligibility also extends to cities that are eligible for funding to do local solid waste plans or updates as provided by subsection (1) of this section.

If the adopted plans designate lead implementation agencies to implement the plans, those agencies are also eligible to apply for coordinated prevention grants.

(4) Eligibility for hazardous waste planning grants. Local governments that are required by chapter 70.105 RCW to adopt or update local hazardous waste plans are eligible to apply for coordinated prevention grants to help pay for those plans.

(5) Eligibility for hazardous waste plan implementation grants. Local governments with department-approved local hazardous waste plans as required by chapter 70.105 RCW are eligible to apply for coordinated prevention grants to help pay for the implementation of projects in the plan. If the plans designate lead implementation agencies to implement the plans, those agencies are also eligible to apply for coordinated prevention grants.

(6) Any grant-eligible entities as defined in this section may submit their requests in a coordinated application as described in WAC 173-312-060 (4)(a), or may submit separate applications as provided in WAC 173-312-060 (4)(b).

[Statutory Authority: Chapters 70.105D and 43.21 RCW. 02-05-070 (Order 01-11), § 173-312-040, filed 2/19/02, effective 3/22/02. Statutory Authority: RCW 70.105D.070(3). 00-19-016 (Order 00-19), § 173-312-040, filed 9/8/00, effective 10/9/00.

Statutory Authority: RCW 43.21A.080. 91-11-090 (Order 90-65), § 173-312-040, filed 5/21/91, effective 6/21/91. Statutory Authority: RCW 43.21A.080 and chapter 70.105D RCW. 90-18-064 (Order 90-17), § 173-312-040, filed 9/4/90, effective 10/5/90. Statutory Authority: RCW 70.105B.220 and 70.95.220. 88-17-001 (Order 88-26), § 173-312-040, filed 8/4/88.]

WAC 173-312-050 Project eligibility. (1) Eligible project costs are those costs which are necessary and reasonable to fund required local planning and the implementation of some projects and programs contained in those plans, including innovative approaches implementing policies of the plan. These are:

(a) Local hazardous waste planning as required by chapter 70.105 RCW.

(b) Local solid waste planning as required by chapter 70.95 RCW.

(c) Local hazardous waste plan implementation projects.

(d) Local solid waste enforcement by the jurisdictional health departments and districts.

(e) Local solid waste plan implementation projects, which are limited to waste reduction and recycling projects and programs.

(2) Eligible project costs do not include:

(a) Solid waste incinerator feasibility studies, construction, maintenance, or operation.

(b) New landfill construction or landfill expansion, or landfill upgrading at an operating facility to meet the requirements of chapters 173-350 and 173-351 WAC.

(c) Landfill closure as required by chapters 173-350 and 173-351 WAC.

(d) Garbage collection and disposal, except start-up and operational costs for waste reduction and recycling programs.

(e) Solid and hazardous waste expenses not directly related to compliance with state solid and hazardous waste laws and rules.

[Statutory Authority: Chapters 70.105D and 43.21 RCW. 02-05-070 (Order 01-11), § 173-312-050, filed 2/19/02, effective 3/22/02. Statutory Authority: RCW 70.105D.070(3). 00-19-016 (Order 00-19), § 173-312-050, filed 9/8/00, effective 10/9/00. Statutory Authority: RCW 43.21A.080. 91-11-090 (Order 90-65), § 173-312-050, filed 5/21/91, effective 6/21/91. Statutory Authority: RCW 43.21A.080 and chapter 70.105D RCW. 90-18-064 (Order 90-17), § 173-312-050, filed 9/4/90, effective 10/5/90. Statutory Authority: RCW 70.105B.220 and 70.95.220. 88-17-001 (Order 88-26), § 173-312-050, filed 8/4/88.]

WAC 173-312-060 Application process. (1) The department shall set forth in its grant guidelines the base funding levels estimated to be available for each county for coordinated prevention grants and the process by which applications will be submitted.

(2) The application must be submitted by the county agency or department having responsibility for solid waste, unless the county executive department selects another agency or department to submit the application.

(3) Coordinated prevention grant applications must:

(a) Include a commitment by the applicants to use local funds to match grant funds according to the requirements of WAC 173-312-090.

(b) Be for eligible projects as defined in WAC 173-312-050.

(c) Include a scope of work that is sufficiently detailed for the department to monitor grant performance.

(d) Include documentation that all cities in the county and lead implementation agencies that have approved the adopted local hazardous waste plan or solid waste plan have had the opportunity to request that projects that meet the requirements of WAC 173-312-050 be included in the application.

(4) To obtain coordinated prevention grant funding, a county shall submit an application, as defined herein:

(a) A coordinated grant application means that the county, the health department or district and any other grant eligible entities as defined in WAC 173-312-040 have reached agreement regarding the requested projects and funding allocations for both local solid and local hazardous waste plans and projects. Coordinated applications will receive financial incentives for administrative coordination set forth in WAC 173-312-080.

The coordinated application shall include a maximum grant request for no more than the base funding level for the county, plus the financial incentive.

(b) In the event a county fails to submit a coordinated application, indicating grant eligible entities have not reached agreement regarding projects and funding allocations, they will lose the incentive as set forth in WAC 173-312-080. This money shall be made available for supplemental funding as specified in WAC 173-312-080.

(5) The application must be signed, indicating approval by responsible officials from the county, local health department or district and any other grant-eligible entities as defined in WAC 173-312-040.

070 (Order 01-11), § 173-312-060, filed 2/19/02, effective 3/22/02. Statutory Authority: RCW 70.105D.070(3). 00-19-016 (Order 00-19), § 173-312-060, filed 9/8/00, effective 10/9/00. Statutory Authority: RCW 43.21A.080. 91-11-090 (Order 90-65), § 173-312-060, filed 5/21/91, effective 6/21/91.]

WAC 173-312-070 Application evaluation. (1) In evaluating coordinated prevention grant applications, the department may require that funding of certain projects take precedence over other projects. The department will refer to the following priority order in evaluating projects:

(a) Required hazardous waste planning under chapter 70.105 RCW and required solid waste planning under chapter 70.95 RCW.

(b) Programs and projects to implement adopted local hazardous waste plans, including waste reduction and recycling.

(c) Solid waste enforcement programs.

(d) Programs and projects to implement adopted local solid waste plans, including waste reduction and recycling.

(2) The department will evaluate each application according to the extent to which it:

(a) Conforms to the adopted local hazardous waste and solid waste plans.

(b) Advances regional solutions and intergovernmental cooperation.

(c) Supports the state's goal to achieve a fifty percent recycling rate.

(d) Confers broad benefit on residents of the county, whether they reside in incorporated areas or unincorporated areas.

(e) Meets the needs of local government for projects that prevent environmental contamination from solid and hazardous waste.

(f) Uses the state's resources efficiently.

(g) For solid waste enforcement funding, takes into account the number of disposal sites and the geographic area requiring enforcement activity.

(3) The department may fund all or portions of a coordinated prevention grant application.

(4) The department may award grants to any local government in order to execute all or portions of a coordinated prevention grant program.

[Statutory Authority: Chapters 70.105D and 43.21 RCW. 02-05-070 (Order 01-11), § 173-312-070, filed 2/19/02, effective 3/22/02. Statutory Authority: RCW 43.21A.080. 91-11-090 (Order 90-65), § 173-312-070, filed 5/21/91, effective 6/21/91.]

WAC 173-312-080 Allocation of grant funding. (1) The department shall consider the following factors in calculating base funding levels, supplemental grant levels, and grant amounts for recipients:

(a) Projected and actual revenue to the local toxics control account, and other funding sources cited in WAC 173-312-010(2), as determined by the department.

(b) The number of people served by a local government.

(2) Grants that may be awarded to eligible cities under WAC 173-312-040 may not exceed a city's proportionate share, based on population, of a county's base funding level as defined in subsection (3)(a) of this section, unless the department, the county, the health department or district and the grant-eligible entities as defined in WAC 173-312-040 agree otherwise.

(3) Projected revenues to the local toxics control account that are available each biennium for coordinated prevention grant purposes must be divided into two portions, one for solid waste enforcement grants, and one for solid and hazardous waste implementation grants. Allocations will be calculated as follows:

(a) For solid waste enforcement grants, an amount sufficient to provide each single-county jurisdictional health department with one hundred thousand dollars and each multi-county jurisdictional health department with one hundred fifty thousand dollars will be set aside. In future biennia the amount set aside for solid waste enforcement will be twenty percent of the total coordinated prevention grant allocation, and the single-county and multi-county solid waste enforcement grant allocation will be increased or decreased proportionately.

(b) For solid and hazardous waste implementation grants, the remaining eighty percent is divided among counties by means of a formula that shall consist of two elements:

(i) A fixed amount for each county, regardless of size; and

(ii) A per capita amount based on county population size as determined by the United States census data or by the official estimates of the state office of financial management.

(c) Counties that submit a coordinated application as defined in WAC 173-312-060 shall receive a ten percent increase if base level funding as defined in (b) of this subsection is an incentive.

(d) After initial grant amounts have been determined for both categories of coordinated prevention grants based upon the applications, the unallocated funds shall become supplemental funds used to promote strategic initiatives that meet needs defined by the state solid waste planning process. Supplemental

funds for solid and hazardous waste implementation grants will first be awarded within the initial solid and hazardous waste implementation coordinated prevention grant portion. Supplemental funds for solid waste enforcement grants will first be awarded within the initial solid waste enforcement coordinated prevention grant portion. Only when supplemental funds still remain in either category after the initial supplemental awards have been given shall the funds be awarded to the other portion.

(4) Applicants must meet the requirements of this chapter to the satisfaction of the department in order to secure grant awards.

[Statutory Authority: Chapters 70.105D and 43.21 RCW. 02-05-070 (Order 01-11), § 173-312-080, filed 2/19/02, effective 3/22/02. Statutory Authority: RCW 70.105D.070(3). 00-19-016 (Order 00-19), § 173-312-080, filed 9/8/00, effective 10/9/00. Statutory Authority: RCW 43.21A.080. 91-11-090 (Order 90-65), § 173-312-080, filed 5/21/91, effective 6/21/91.]

WAC 173-312-090 State assistance share and local cash match. (1) Costs eligible under WAC 173-312-050 will be considered for grant funding at a level of seventy-five percent. Twenty-five percent of eligible costs must be provided as local cash match.

(2) Local cash match may be met by cash expenditures and interlocal costs. Interlocal costs are the only type of in-kind contributions that may be used for local cash match.

[Statutory Authority: Chapters 70.105D and 43.21 RCW. 02-05-070 (Order 01-11), § 173-312-090, filed 2/19/02, effective 3/22/02. Statutory Authority: RCW 70.105D.070(3). 00-19-016 (Order 00-19), § 173-312-090, filed 9/8/00, effective 10/9/00. Statutory Authority: RCW 43.21A.080. 91-11-090 (Order 90-65), § 173-312-090, filed 5/21/91, effective 6/21/91.]

WAC 173-312-100 Grant administration. (1) The department shall prepare guidelines to facilitate compliance with and interpretation of this rule.

(2) Coordinated prevention grants shall operate on a biennial funding cycle. Applications will be due in the first quarter of the biennium. Eligible applicant governments will apply for grant funds up to the base funding level set forth in WAC 173-312-080 plus the incentive, and at the same time shall submit requests for additional funds to assist ongoing or new

projects. Supplemental funds, if awarded, shall be supplied as part of the new grant. New grants will begin in the third quarter of the biennium, and will run for two calendar years.

(3) The department will obligate coordinated prevention grant funds to a recipient for a maximum period of two years. If the recipient has not accomplished the scope of work in the time period set forth in the agreement, the recipient must use a portion of its next biennial base funding level to complete the project(s).

(4) No costs incurred before the effective date of a grant agreement are eligible unless specific provision is made in the grant agreement for those costs.

(5) All grants under this chapter must be consistent with Administrative Requirements for Ecology Grants and Loans WDOE #91-18 (Revised October 2000).

[Statutory Authority: Chapters 70.105D and 43.21 RCW. 02-05-070 (Order 01-11), § 173-312-100, filed 2/19/02, effective 3/22/02. Statutory Authority: RCW 70.105D.070(3). 00-19-016 (Order 00-19), § 173-312-100, filed 9/8/00, effective 10/9/00. Statutory Authority: RCW 43.21A.080. 91-11-090 (Order 90-65), § 173-312-100, filed 5/21/91, effective 6/21/91.]